2390.

SUPREME COURT OF THE UNITED STATES.

No. 179.

RICHARD A. STEWART, PL'FF IN ER.,

VS.

THE ATLANTIC BANK, IN THE CITY OF BROOKLYN.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE EASTERN DISTRICT OF LOUISIANA.

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CIRCUIT COURT OF THE UNITED STATES,
Fifth Circuit and Eastern District of Louisiana.

TRANSCRIPT. CASE OF

THE ATLANTIC BANK, in the City of Brooklyn,
vs.
RICHARD A. STEWART.
} No. 2672.

Petition.—Filed with 3 doc'ts 28th Oct., 1856.

To the honorable the judges of the circuit court of the United States in and for the fifth circuit, holding sessions at New Orleans, eastern district of Louisiana:

The petition of the Atlantic Bank, in the city of Brooklyn, respectfully shows, that your petitioners are a corporation duly created by the laws of the State of New York, and established in said city of Brooklyn, State of New York; that James McMasters is also a citizen of the said State of New York, residing in said city of Brooklyn; and that Richard A. Stewart is a citizen of the State of Louisiana, residing within the jurisdiction of this court, viz. in the parish of St. Bernard.

And your petitioners further represent, that they are the holders and owners of a certain note made at New Orleans on the 18th March, 1854, by said Richard A. Stewart, for $5,964 28, payable on the 1st day of March, 1856, to the order of James McMasters, at the Bank of Louisiana, in said New Orleans, with interest at the rate of eight per cent. per annum from maturity till paid, and which note was by the said James McMasters endorsed and transferred to petitioners, and at maturity, viz, on the 4th March, 1856, after due presentment and demand, was duly protested for nonpayment, as the whole will appear from the said note and the act of protest hereto annexed and made part of this petition.

Your petitioners further show, that on the 18th March, 1854, by act passed before Theodore Guyal, not. pub. in and for the city of New Orleans, the said Richard A. Stewart, in order to secure the due and punctual payment of the said note, with interest and all costs, specially mortgaged and hypothecated all that certain tract or parcel of land situate in the parish of St. Bernard, on the left bank of the river Mississippi, at about eleven miles below the city of New Orleans, measuring twenty-one arpents front on said river, and having at the depth of forty arpents from the river a further front of twenty or twenty-five arpents on the upper line, thence opening twenty-two degrees, and extending in depth to Lake Borgne;

CIRCUIT COURT OF THE UNITED STATES,
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Petition.—Filed with 3 doc'ts 28th Oct., 1856.

To the honorable the judges of the circuit court of the United States in and for the fifth circuit, holding sessions at New Orleans, eastern district of Louisiana:

The petition of the Atlantic Bank, in the city of Brooklyn, respectfully shows, that your petitioners are a corporation duly created by the laws of the State of New York, and established in said city of Brooklyn, State of New York; that James McMasters is also a citizen of the said State of New York, residing in said city of Brooklyn; and that Richard A. Stewart is a citizen of the State of Louisiana, residing within the jurisdiction of this court, viz, in the parish of St. Bernard.

And your petitioners further represent, that they are the holders and owners of a certain note made at New Orleans on the 18th March, 1854, by said Richard A. Stewart, for $5,964 28, payable on the 1st day of March, 1856, to the order of James McMasters, at the Bank of Louisiana, in said New Orleans, with interest at the rate of eight per cent. per annum from maturity till paid, and which note was by the said James McMasters endorsed and transferred to petitioners, and at maturity, viz, on the 4th March, 1856, after due presentment and demand, was duly protested for non-payment, as the whole will appear from the said note and the act of protest hereto annexed and made part of this petition.

Your petitioners further show, that on the 18th March, 1854, by act passed before Theodore Guyal, not. pub. in and for the city of New Orleans, the said Richard A. Stewart, in order to secure the due and punctual payment of the said note, with interest and all costs, specially mortgaged and hypothecated all that certain tract or parcel of land situate in the parish of St. Bernard, on the left bank of the river Mississippi, at about eleven miles below the city of New Orleans, measuring twenty-one arpents front on said river, and having at the depth of forty arpents from the river a further front of twenty or twenty-five arpents on the upper line, thence opening twenty-two degrees, and extending in depth to Lake Borgne;

bounded on the upper line by James Hewitt's plantation, and on the lower side by that formerly belonging to the Messrs. Beauregard; together with all the buildings and improvements existing on the said plantation, and all the rights, privileges, and servitudes thereunto belonging or in any wise appertaining.

And also another tract of land, a plantation adjoining the above, measuring nine arpents and three-fourths of an arpent, more or less, on the Mississippi river, thirty-three arpents and forty-nine feet in depth on the lower line, thirty-six arpents and twenty-eight feet in depth on the upper line, and opening twelve degrees thirty minutes, to commence from the lower boundary, as particularly shown on a plan drawn by E. Surgi, deputy surveyor general, on the 25th January, 1851.

And also all the slaves attached to the said plantation, as the whole will more fully appear from the authentic copy of the said act of mortgage, hereto annexed and made part of this petition, for greater detail and certainty in the premises.

Wherefore petitioners pray that the said Richard A. Stewart may be served with a copy of this petition, and cited to appear and answer thereto, and after all due proceedings had, that he be adjudged and decreed to pay to petitioners the aforesaid sum of $5,964 28, with $3 68 costs of protest, $15 costs of notarial act, and interest thereon at the rate of eight per cent. per annum from the 4th March, 1856, till paid, and all costs of suit, and that said judgment be satisfied, and privilege and preference from the sale of the property mortgaged as aforesaid, and for all further and needful aid and relief.

(Signed) BENJAMIN, BRADFORD & FINNEY,
Attys.

Note and Protest annexed to Petition.

C. 307. No. 651.

$5,964 28. NEW ORLEANS, 18*th March*, 1854.

On the first day of March, 1856, after date, I promise to pay to the order of James McMaster, at the Bank of Louisiana in this city, five thousand nine hundred and sixty-four 28-100 dollars, value received, with interest at the rate of eight per cent. per annum from maturity until paid.

RCH. A. STEWART.

[Across the face:] Ne varietur. New Orleans, 18th March, 1854. THEO. GUYAL, *No'y.*

Endorsements on the back of said note, as follows: 1989. R. A. Stewart. 5964 28. March 4. Pay W. B. Scott & Co. or order. Wm. C. Rushman, cashier. Pay R. H. Thorn & Co. or order. W. B. Scott & Co. James McMartin.

(Erased:) Pay American Exchange Bank or order. Wm. C. Rushman, cashier. Pay W. P. Grayson or order, for collection on account of the Am. Ex. Bank. B. Murray, a. c'r.

Protest.

UNITED STATES OF AMERICA,
State of Louisiana.

By this public instrument of protest, be it known that on this fourth day of March, in the year one thousand eight hundred and fifty-six, at the request of Wm. P. Grayson, esq'r, cashier, holder of the original note, whereof a true copy is on the reverse hereof written, I, Walter Hicks Peters, a notary public in and for this city and parish of Orleans, State of Louisiana aforesaid, duly commissioned and sworn, by my deputy, W. L. Rowley, presented said note at the Bank of Louisiana in this city, where it is made payable, within banking hours, and just before the closing of same, to the bookkeeper and paying teller, and demanding payment of the contents, was answered that no funds had been deposited there to pay the same.

Whereupon I, the said notary, at the request aforesaid, did protest, and by these presents do publicly and solemnly protest, as well against the drawer or maker of the said note, as against all others whom it doth or may concern, for all exchange, re-exchange, damages, costs, charges, and interest, suffered or to be suffered for want of payment of the said note.

Thus done and protested in the presence of Charles L. Kennon and Walter L. Rowley, witnesses.

WALTER H. PETERS, *Not. Pub.*

(Signed) LA BADOYERE KENNON,
W. L. ROWLY.

A true copy of the original on file in my office.

In testimony whereof, I grant these presents under my signature, and the impress of my seal of office, at the city of New [SEAL.] Orleans, on the day and year first above written.

WALTER H. PETERS,
Notary Public.

Written on the reverse side of protest.

$5,964 28. NEW ORLEANS, 18*th March*, 1854.

On the first day of March, 1856, after date, I promise to pay to the order of James McMaster, at the Bank of Louisiana in this city, five thousand nine hundred and sixty-four 28-100 dollars, value received, with interest at the rate of eight per cent. per annum from maturity until paid.

RCH. A. STEWART.

[Across the face:] Ne variatim. New Orleans, 18th March, 1854.

THEO. GUYAL, *No. Pub.*

Endorsed: James McMasters. Pay American Exchange Bank or order. Wm. C. Rushman, cash'r. Pay Wm. P. Grayson, c., or order, for collection on acc't of the Am. Ex. Bank. B. Murray, a. c'r.

Answer.—Filed 12th Nov'r, 1856.

THE ATLANTIC BANK, in the City of Brooklyn,
vs.
RICHARD A. STEWART.

In the United States circuit court for the 5th circuit and eastern district of Louisiana, at New Orleans sitting.

Richard A. Stewart, of Louisiana, now comes into court, and for answer to the petition of plaintiffs, denies generally all and several the allegations in plaintiffs' petition contained.

Wherefore defendant prays that this suit be dismissed at the cost of plaintiffs, and for general and equitable relief.

CHILTON & HARRISON,
Att'ys for Deft.

Supplemental Answer and Interrogatories and Order.—Filed November 13th, 1856.

THE ATLANTIC BANK, in the City of Brooklyn,
vs.
RICHARD A. STEWART.
No. 2672.

In the United States circuit court in and for the 5th circuit and eastern district of Louisiana, at New Orleans sitting.

The supplemental and amended answer of Richard A. Stewart, of the State of Louisiana, made defendant in the above-entitled and numbered suit, now pending in this honorable court, denies generally all and several the allegations in plaintiffs' petition contained, except so far as the same are hereinafter admitted.

Defendant admits that he signed said note described in said petition, but denies that the same was transferred absolutely by said McMasters to the plaintiff, as in said petition is alleged, either before or after maturity thereof, and denies that plaintiffs are the legal holders and owners thereof; therefore defendant says that plaintiff is not entitled to his said action thereon.

Defendant, further answering, says that before the said McMasters had parted with his interest in said note, either wholly or in part, and before maturity thereof, certain creditors of said McMasters sued out attachments against him, under which all his interest in said note was seized in the hands of defendants as garnishee, to wit, an attachment in the 4th district court of New Orleans, by one William G. Clay, for the sum of $843, with interest from May 4th, 1854; and in the 6th district court of New Orleans, by one Weatherly, for $1,000; and in the 1st district court of Louisiana, in and for the parish of St. Bernard, for about $1,500, at suit of one Samuel W. Cartwright; and that defendant, in his answer to said suits, as garnishee, acknowledged himself to be indebted to said McMasters in the amount specified in said answers.

Defendant further states, that he is advised that if judgment is rendered in said attachment suits vs. said McMasters, he will be compelled as garnishee to pay and satisfy said judgments. That said suits are still undetermined, and that if plaintiffs should obtain judgment also in this court for the full amount claimed by them in their petition, this defendant may be compelled to pay the same debt twice. Defendant will hereto annex copies of said attachment suits, duly certified, &c., before the trial of this suit.

Wherefore defendant says that plaintiffs *is* not entitled to judgment against this defendant, and prays that plaintiffs be cited and compelled to answer under oath the annexed interrogatories, and that after due proceedings had, that the petition be dismissed at the costs of plaintiffs, or that they have judgment, if at all, only for the amount claimed less the aforesaid garnishments, and for general relief.

CHILTON & HARRISON,
Att'ys for Defendant.

Interrogatories to the President and Directors of the Bank of the Atlantic, in Brooklyn.

Int'y 1st. Did or did not James McMasters assign to you the note of R. A. Stewart for $5,964 28, sued on in this action? If so, was said transfer absolute, and what was the consideration or amount paid by you for it at the time? Was it in consideration of an antecedent debt, or was money advanced to said McMasters for it at the time of the assignment, and how much? Did or did not said McMasters take from you any receipt or other writing for said note? and if so, annex a copy thereof to your answer. If you cannot produce a copy, state the reasons why, and state also the contents of said receipt or other writing.

Int. 2d. What was the exact date of the transfer of said note from said McMasters to you?

Int. 3d. If said transfer was not absolute, or a sale for full consideration, state whether or not it was a pledge or hypothecation of

said note, as collateral security for another debt. What was the amount of said other debt?

CHILTON & HARRISON,
For Defendant.

STATE OF LOUISIANA,
City of New Orleans.

Before me, the undersigned, deputy clerk of the circuit court of the United States at New Orleans, personally appeared Rich'd A. Stewart, who made oath that the foregoing interrogatories are material, and that in his opinion the answer of the plaintiffs *answer* will assist him in making his defence.

R. A. STEWART.

Sworn to and subscribed before me this the 12th day of Nov'r, 1856.

(Signed) A. LAVISSON,
Dep. C'k U. S. Circuit Court East. Dist. of La.

Order.

Order. Let the supplemental answer herein be filed, and that the plaintiffs be cited to answer under oath, and in writing, within the legal delay, the interrogatories hereto annexed.

(Signed) THEO. H. McCALEB,
U. S. Judge.

U. S. Marshal's Return.

Received November 13th, 1856, and on the 14th of same month served copy of the within supplemental answer and interrogatories on Messrs. Benjamin, Bradford & Finney, in the manner following, to wit, by handing the same to J. P. Benjamin, one of said firm of Benjamin, Bradford & Finney, in person, in the city of New Orleans, and returned same day.

L. D. JORDA, *Dep. Marshal.*

Answers of Plffs. to Interrogatories, &c.—Filed 28th April, 1857.

In the United States circuit court in and for the 5th circuit and eastern district of Louisiana, at New Orleans sitting.

THE ATLANTIC BANK, in the City of Brooklyn, against RICHARD A. STEWART. } No. 2672.

STATE OF NEW YORK, *ss:*

William C. Rushmore, being duly sworn, says that he is the

cashier of the plaintiffs, and has been such cashier for upwards of two years last past; and in answer to the interrogatories propounded by the defendant, Richard A. Stewart, he answers as follows:

1st. To the first interrogatory, he answers and says, that James McMaster did assign the note of R. A. Stewart for $5,964 28, sued on in this action, to the plaintiffs, by an absolute assignment thereof in writing, under his hand and seal, bearing date the third day of September, one thousand eight hundred and fifty-five. There was not any consideration or amount paid or money advanced for it by the plaintiffs to said McMaster at the time of the said assignment thereof in writing as aforesaid. The said note, at the time of the said assignment thereof in writing as aforesaid, was in the possession of and held by the plaintiffs. It had previously, and on the eighteenth day of May, one thousand eight hundred and fifty-five, been given to the plaintiffs under the following circumstances: On that day (the eighteenth day of May, one thousand eight hundred and fifty-five) the plaintiffs discounted for said McMaster a note of Benjamin F. French for three thousand dollars, payable to and endorsed by McMaster, and paid him the proceeds thereof, after deducting the discount, and at the same time took and received from said McMaster the said note of R. A. Stewart, as collateral security for the payment of said note, and on the agreement at the time that it should be held as security for any other paper that might thereafter be given by or be discounted for said McMaster.

The said note of French fell due on the sixteenth day of August, 1855, and was paid. The plaintiffs, after the said eighteenth day of May, 1855, discounted other paper for said McMaster from time to time, holding the said note of R. A. Stewart during all the time, by and with the consent and agreement of McMaster, as collateral security for the payment of the paper discounted for or taken from him. At the time the said assignment in writing was made and executed, the plaintiffs held paper of other parties, made to and endorsed by said McMaster, and discounted by the plaintiffs for him, to the amount of four thousand eight hundred and fifty-five dollars and twenty-five cents; and they now hold notes discounted for and given by the said McMaster to the amount of eight thousand three hundred and fifty-three dollars, besides interest accrued thereon. The said McMaster took no receipt or other writing for said note of R. A. Stewart. The assignment in writing was made at the time it was made, because the plaintiffs had, after the original taking thereof by them, been informed that the said note of R. A. Stewart was a mortgage note, and they were advised that it was necessary for them to have an assignment thereof in writing, and thereupon they requested said McMaster to make such assignment in writing as aforesaid, and he accordingly made and executed the same at the time of the date thereof. All the notes now held by the plaintiffs as aforesaid are past due and unpaid.

To the second interrogatory, he answers and says, that the exact date of the written assignment of the said note of R. A. Stewart to the plaintiffs was the third day of September, one thousand eight hundred and fifty-five, but the same had been given to and left with the plaintiffs on the eighteenth day of May, one thousand eight hundred and fifty-five, on the agreement and under the circumstances and in the manner stated in his answer to the first interrogatory; and he cannot answer the said second interrogatory more fully than he has stated in his answer to the said first interrogatory.

To the third interrogatory, he answers and says, that the said note of R. A. Stewart was originally given to and taken by the plaintiffs, and subsequently assigned to them by the said assignment in writing as aforesaid, under the circumstances and in the manner specially stated in his answer to the first interrogatory; and he cannot answer the said third interrogatory more fully than he has stated in answer to the first interrogatory.

WM. C. RUSHMORE.

Sworn to before me this 6th Dec'r, 1856.

R. E. STILWELL,
U. S. Com'r.

Certificate anx.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Kenneth G. White, clerk of the circuit court of the United States of America for the southern district of New York, second circuit, do hereby certify that I am well acquainted with the handwriting of R. E. Stilwell, whose name is subscribed to the annexed *ineat*, and that the signature to the same is in his proper handwriting; and I do further certify that he was, at the time of signing the same, a United States Commissioner, duly appointed by the circuit court of the United States of America for the southern district of New York, second circuit.

In testimony whereof, I have hereunto subscribed my name, and [SEAL.] affixed the seal of the said court, this sixth day of December, in the year of our Lord one thousand eight hundred and fifty-six, and of the independence of the United States the eighty-first.

KENNETH G. WHITE,
Clerk.

Minutes. Judgment.—April term, 1857.

NEW ORLEANS, *Tuesday, 28th April*, 1857.

Court met pursuant to adjournment. Present, Hon. J. A. Camp-

bell, presiding judge; present, Hon. Theo. H. McCaleb, district judge.

THE ATLANTIC BANK
vs.
RICHARD A. STEWART. } 2672.

This cause came on to be heard, and was argued by counsel; whereupon, on consideration thereof, and by reason of the law and the evidence being in favor of the pl'ff, it is ordered, adjudged, and decreed that the plaintiffs, the Atlantic Bank, in the city of Brooklyn, do have and recover judgment against the defendant, Richard A. Stewart, for the sum of five thousand nine hundred and sixty-four dollars and twenty-eight cents, with interest thereon at the rate of eight per cent. per annum, from the 4th March, 1856, until paid, and three dollars and sixty-eight cents costs of protest, and fifteen dollars costs of copy of notarial act, and costs of suit. And it is further ordered, that this judgment be satisfied by preference and privilege from the sale of the property set forth and described in the petition and in the act of mortgage thereto annexed.

Minutes.—Motion for a New Trial.—April term, 1857.

NEW ORLEANS, *Saturday, 2d May*, 1857.

Court met pursuant to adjournment. Present, Hon. J. A. Campbell, presiding judge; absent, Hon. Theo. H. McCaleb, district judge.

THE ATLANTIC BANK
vs.
RICHARD A. STEWART. } 2672.

Jno. M. Chilton, esq'r, of counsel for the defendant, this day moved the court that the judgment herein rendered be set aside, and a new trial allowed on the grounds presented and filed; whereupon it was ordered that plaintiffs' counsel be notified thereof.

Grounds for New Trial.—Filed 2d May, 1857.

IN UNITED STATES CIRCUIT COURT,
Eastern District of Louisiana.

ATLANTIC BANK, in, &c.,
vs.
RICHARD A. STEWART. } 2672.

And now, on this 1st day of May, 1857, in open court, the defendant, by his counsel, Chilton & Harrison, comes and moves the

court that a rule issue against the plaintiffs, citing them to appear and show cause, on the inst., at 10 o'clock a. m., why the judgment rendered in this case should not be set aside, and a new trial granted unto this defendant, on the following grounds, to wit:

1st. The interrogatories of defendant are addressed to the president, directors, and co. of the Atlantic Bank, being the plaintiff, and the answers thereto are made by their agent, not being either of the plaintiffs, to wit, the cashier of said bank, and that said answers are not the sworn answers of the plaintiffs, nor such as the defendant was by law entitled to in response to his interrogatories.

2d. The said answers show that, by said agreement of transfer, defendant's note was given to secure the note of Benj. S. French, (which was paid at maturity,) and such notes as might thereafter be discounted for McMasters; and it does not appear from said answers whether the notes discounted for McMasters by them, and now remaining unpaid, were discounted after said agreement, and that in this their answer is evasive, irresponsive, and defective.

CHILTON & HARRISON,
For Defendants.

Minutes.—April term, 1857.—*Judgment on Rule.*

NEW ORLEANS, *Friday, 15th May*, 1857.

Court met pursuant to adjournment. Present, Hon. J. A. Campbell, presiding judge; present, Hon. Theo. H. McCaleb, district judge.

THE ATLANTIC BANK
vs.
R. A. STEWART.

The rule for a new trial in this case was called up; the counsel for plff. in rule absent, T. J. Benjamin, esq., appearing for defendants in rule; whereupon it was submitted to the court without argument, and, on consideration, it was ordered that it be dismissed, and a new trial refused.

Final Judgment.—April term, 1857.

CIRCUIT COURT OF THE UNITED STATES,
Fifth Circuit and Eastern District of Louisiana.

NEW ORLEANS, *Tuesday, 28th April*, 1857.

Court met pursuant to adjournment. Present, Hon. J. A. Campbell, presiding judge; present, Hon. Theo. H. McCaleb, district judge.

THE ATLANTIC BANK, of Brooklyn,
vs.
RICHARD A. STEWART.

This cause came on to be heard, and was argued by counsel; whereupon, on consideration thereof, and by reason of the law and the evidence being in favor of the plaintiffs, it is ordered, adjudged, and decreed that the plaintiffs, the Atlantic Bank, in the city of Brooklyn, do have and recover judgment against the defendant, Richard A. Stewart, for the sum of five thousand nine hundred and sixty-four dollars and twenty-eight cents, with interest thereon at the rate of eight per cent. per annum, from the 4th March, 1856, till paid, and three dollars and sixty-eight cents costs of protest, and fifteen dollars costs of copy of notarial act, and costs of suit; and it is further ordered that this judgment be satisfied by preference and privilege from the sale of the property set forth and described in the petition and in the act of mortgage thereto annexed.

Judgment rendered 28th April, 1857.
" signed 20th May, 1857.
(Signed) J. A. CAMPBELL,
Ass. Justice S. C. U. S.

Petition for Writ of Error.—Filed 22d May, 1857.

UNITED STATES CIRCUIT COURT,
For the 5th Circuit and Eastern District of Louisiana.

ATLANTIC BANK, of Brooklyn,
vs.
R. A. STEWART. } No. 2672.

The petition of R. A. Stewart, the defendant in the above-entitled and numbered suit, respectfully represents, that he is aggrieved by the judgment herein rendered against him on the 20th day of May, 1857, and that he is advised that there is error therein to his prejudice, and is desirous that the same should be revised by the Supreme Court of the United States.

Wherefore he prays that a writ of error be allowed him, returnable to the next term of the Supreme Court of the United States, upon his giving bond in such sum as the court may direct, with good and solvent security, and that the said writ of error may operate as a supersedeas.

And petitioner will ever pray, &c.
CHILTON & HARRISON, *for Deft.*

Minutes.—April term, 1857.—*Order allowing Writ Error.*

NEW ORLEANS, *Friday, 22d May*, 1857.

Court met pursuant to adjournment. Present, Hon. J. A. Camp-

bell, presiding judge; absent, Hon. Theo. H. McCaleb, district judge.

ATLANTIC BANK, in Brooklyn,
vs.
RICHARD A. STEWART.

On motion of Messrs. Chilton & Harrison, of counsel for the defendant, and on presenting the petition of the said defendant, representing that he is aggrieved by the judgment herein rendered against him, and praying for a writ of error therefrom to the Supreme Court of the United States, and that the same may operate as a supersedeas, it is ordered that a writ of error be allowed as prayed for, returnable to the next term of the Supreme Court of the United States, upon the said defendant giving bond, conditioned according to law, in the penal sum of nine thousand dollars, with good and solvent surety thereon.

Bond for Writ Error.—Filed 22d May, 1857.

Know all men by these presents, that we, Richard A. Stewart, as principal, and Charles H. Davis, as surety, are held and firmly bound unto the Atlantic Bank, in the city of Brooklyn, in the full and just sum of nine thousand dollars, to be paid to the said Atlantic Bank in the city of Brooklyn, their certain attorney, executors, administrators, or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated this 22d day of May, in the year of our Lord one thousand eight hundred and fifty-seven.

Whereas, lately, at a circuit court of the United States, 5th judicial circuit, holding sessions in and for the eastern district of Louisiana, in a suit depending in said circuit court, wherein the Atlantic Bank of Brooklyn is plaintiff, and Richard A. Stewart is defendant, judgment was rendered against the said Rich'd A. Stewart, defendant, and the said Rich'd A. Stewart having obtained a writ of error, and filed a copy thereof in the clerk's office of the said circuit court, to reverse the judgment in the aforesaid suit, and a citation directed to the said Atlantic Bank of Brooklyn, citing and admonishing them to be and appear at a Supreme Court of the United States, to be holden at Washington the first Monday of December next:

Now, the condition of the above obligation is such, that if the said Richard A. Stewart shall prosecute his writ to effect, and answer all damages and costs if he fail to make his plea good, then the above obligation to be void, else to remain in full force and virtue.

RCH. A. STEWART, [SEAL.]
C. H. DAVIS, [SEAL.]

Sealed and delivered in the presence of—
J. W. GURLEY.

Chas. H. Davis, surety herein, being duly sworn, says he is worth the sum of nine thousand dollars, over and above all his debts and liabilities.

C. H. DAVIS.

Sworn to and subscribed before me this 16th May, 1857.
J. W. GURLEY, *Clerk.*

UNITED STATES OF AMERICA,
Circuit Court of the United States,
Fifth Circuit and Eastern District of Louisiana.

CLERK'S OFFICE.

I, John W. Gurley, clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, do hereby certify that the foregoing 20 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had in the case of the Atlantic Bank, in city of Brooklyn, vs. Richard A. Stewart, No. 2672 of the docket, so far as the same now remain of record or on file in said court.

[SEAL.] Witness my hand and the seal of said court, at the city of New Orleans, this 17 day of Sept., A. D. 1857.
J. W. GURLEY, *Clerk.*

UNITED STATES OF AMERICA, *ss:*

The President of the United States, to the honorable the judges of the circuit court of the United States in and for the fifth circuit, and holding sessions for the eastern district of Louisiana, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, or one of you, between the Atlantic Bank, in the city of Brooklyn, a corporation established by the laws of the State of New York, and located in the city of Brooklyn, in said State, and Richard A. Stewart, a manifest error hath happened, to the great damage of the said Richard A. Stewart, as by his complaint appears—

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday of December next, in the said Supreme Court, to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to